



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/989,555	11/20/2001	M. David Boothe	BOO001/0135818	1685

7590

12/19/2002

GARY L. BUSH
ANDREWS & KURTH
MAYOR, DAY, CALDWELL & KEETON L.L.P.
700 LOUISIAN, SUITE 1900
HOUSTON, TX 77002

EXAMINER

LUGO, CARLOS

ART UNIT

PAPER NUMBER

3677

DATE MAILED: 12/19/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/989,555

Applicant(s)

BOOTHE, M. DAVID

Examiner

Carlos Lugo

Art Unit

3677

— The MAILING DATE of this communication appears on the cover sheet with the correspondence address —

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 November 2002.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 9 and 10 is/are pending in the application.
- 4a) Of the above claim(s) 1-8 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 9 and 10 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 20 November 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2 and 4.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

1. This Office Action is in response to applicant's amendment filed on November 19, 2002, wherein claims 1-8 were canceled.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. **Claims 9 and 10 are rejected** under 35 U.S.C. 103(a) as being unpatentable over US Pat No 3,078,917 to Recchione in view of US Pat No 540,911 to George or US Pat No 550,719 to Hudson.

Recchione discloses a roll up door (22), arranged and designed to roll up and down in a vertical opening of a wall (43), having a latch mechanism (Figure 2).

The latch mechanism includes a latch plate (115) mounted on the roll up door, and a latch (118 and 119) mounted on the latch plate. The latch is arranged for horizontal movement between an open and a closed position by moving a locking piece (119) into and out of engagement with a slot (124) of the wall.

However, Recchione fails to disclose that a hole with a loop is provided in the latch.

George teaches that is known in the art to have a sliding latch (B on the top) with a hole and a loop to help in the open movement of the latch.

Also, Hudson teaches that is known in the art to have a sliding latch (C on the top) with a hole and a loop to help in the open movement of the latch.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to include a hole with a loop, as taught by George or Hudson, into a device as described by Recchione, in order to help in the open movement of the latch.

4. **Claims 9 and 10 are rejected** under 35 U.S.C. 103(a) as being unpatentable over US Pat No 4,930,563 to Finch et al (Finch) in view of US Pat No 540,911 to George or US Pat No 550,719 to Hudson.

Finch discloses a roll up door (120), arranged and designed to roll up and down in a vertical opening of a wall (162), having a latch mechanism (130,132,134 and 136).

The latch mechanism includes a latch plate (130) mounted on the roll up door, and a latch (132 and 134) mounted on the latch plate. The latch is arranged for horizontal movement between an open and a closed position by moving a locking piece (134) into and out of engagement with a slot (136) of the wall.

However, Finch fails to disclose that a hole with a loop is provided in the latch.

George teaches that is known in the art to have a sliding latch (B on the top) with a hole and a loop to help in the open movement of the latch.

Also, Hudson teaches that is known in the art to have a sliding latch (C on the top) with a hole and a loop to help in the open movement of the latch.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to include a hole with a loop, as taught by George or Hudson, into a device as described by Finch, in order to help in the open movement of the latch.

Response to Arguments

5. Applicant's arguments filed November 19, 2002 have been fully considered but they are not persuasive.

Regarding applicant's arguments that George (US 540,911) does not disclose a loop, Figure 1 illustrates that the sliding latch (B on the top) includes a chain and a loop attached to the chain in order to help in the disengagement of the latch from the wall in order to open the door.

Conclusion


6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The patents cited further show the state of the art with respect to door latches.
7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the

shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Carlos Lugo. The examiner phone number is (703)-305-9747. The fax number for correspondence before a final action is (703)-872-9326 and the fax number for correspondence after final action is (703)-872-9327. The email direction of the examiner is carlos.lugo@uspto.gov. The examiner can normally be reached on Monday to Friday from 9:30am to 6:30pm (EST). If the examiner is not available, please leave a message, including the application number and the examiner will answer the message as soon as possible.

December 13, 2002


J. J. SWANN
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600